

**MINUTES OF THE  
CITY PLANNING COMMISSION  
NOVEMBER 3, 2006  
J. MARTIN GRIESEL CONFERENCE ROOM  
TWO CENTENNIAL PLAZA – SUITE 700  
805 CENTRAL AVENUE**

**CALL TO ORDER**

Mr. Faux called the meeting to order at 9:06 a.m.

**Commission Members:**

***Present:*** Caleb Faux, James Tarbell, Rainer vom Hofe and Milton Dohoney

**Community Development and Planning Staff:** Margaret Wuerstle, Bonnie Holman, Steve Briggs, Katherine Keough-Jurs and Caroline Kellam

**Law Department:**

Julia Carney

**APPROVAL OF MINUTES**

Submission of the minutes from the October 20, 2006 Planning Commission meeting for approval.

<b>Motion:</b>	Mr. Tarbell moved approval of minutes.
<b>Second:</b>	Mr. Dohoney
<b>Ayes:</b>	Mr. Faux, Mr. Tarbell, Mr. vom Hofe and Mr. Dohoney
<b>Nays:</b>	None, <b>motion carried</b>

**CONSENT ITEMS**

**ITEM #1** A report and recommendation on granting a permanent easement through Corporation Alley to Craig R. Shanske for a water line.

**ITEM #2** A report and recommendation on dedication of property for the widening of Columbia Parkway in accordance with a plat from Neyer/Columbia Square LLC

**DISCUSSION**

<b>Motion:</b>	Mr. vom Hofe moved approval of Consent Items #1 and #2.
<b>Second:</b>	Mr. Dohoney
<b>Ayes:</b>	Mr. Faux, Mr. Tarbell, Mr. vom Hofe and Mr. Dohoney
<b>Nays:</b>	None, <b>motion carried</b>

**ITEM #3** A report and recommendation on a proposed zone change from **OG** Office General and **CC-M** Commercial Community - Mixed to **CC-A** Commercial Community - Auto at the northeast corner of Victory Parkway and E. McMillan Street in East Walnut Hills.

*Ms. Katherine Keough-Jurs, Senior Planner, presented this item.*

**BACKGROUND:**

This zone change request encompasses three properties at the northeast corner of the Victory Parkway and E. McMillan Street: the Skyline Chili at 1202 E. McMillan Street; the Cinelect union building located at 1216 E. McMillan Street; and, the Clermont Pharmacy building, located at 2516 Victory Parkway. The owners of the Skyline Chili are in the process of purchasing the Cinelect union building. The combined properties would be the site of a proposed new development featuring a newly constructed Skyline Chili restaurant and several additional storefronts for restaurant or retail use. There are currently no solid redevelopment plans for the Clermont Pharmacy building, but it was included in the zone change because it is surrounded on three sides by the Skyline Chili property and Union property. Also, the developers have had initial conversations with the owner of the Clermont Pharmacy building to determine whether it would be advantageous to include that property in the new development.

**EXISTING CONDITIONS:**

The properties in question are located at the northeast corner of the intersection of Victory Parkway and E. McMillan Street in East Walnut Hills. The property on the western side of the development site is the location of the union building and is currently zoned OG Office General; the property immediately at the corner is the site of the existing Skyline Chili, currently zoned CC-M Commercial Community - Mixed; and, the property at the north end of the proposed development is the site of the Clermont Pharmacy building, also zoned CC-M Commercial Community - Mixed.

The property surrounding the area for rezoning is as follows:

North: OL Office Limited

West: CC-M Commercial Community-Mixed

South: OG Office General

East: OG Office General

**PLANS:**

There are currently no approved Plans for the East Walnut Hills community that encompass or make reference to this property.

**PUBLIC COMMENT:**

The Planning staff held a public conference on this zone change request on September 5, 2006. The only attendees were the petitioner and the other owners of the property proposed for the zone change. However, Staff received four (4) letters of support from surrounding property owners.

The East Walnut Hills Area Assembly (EWHAA) has discussed this project at their Board meeting and it is on the agenda for the November 1, 2006 meeting of the full Assembly. The Board is very supportive of the Petitioner and of the development itself, but it is not supportive of a change to a CC-A zone because of the future development that could occur with this zone in place. Also, this corner is located on Victory Parkway, and the community did not feel that an automobile-related zone would be appropriate along a Parkway.

**ANALYSIS OF THE PROPOSED CHANGE:**

The CC-A zoning was requested to allow for greater flexibility in site design, specifically with regard to the existence and location of drive-through facilities. The OG zone does not allow for drive-through facilities, and the CC-M requires that all drive-through facilities be located at the rear of the building. Because of the grade differential on this site and the potential for multiple drive-through facilities, it is possible that at least one drive-through facility may need to be located at the front of the building, which is permitted in the CC-A zone.

The Board of the EWHAA is very supportive of the developers, as the same family has operated a Skyline Chili on E. McMillan for several decades. They are also very supportive of the proposed development, as it will create a newer, more modern Skyline Chili and the opportunity for additional development and beautification on this corner of the intersection. However, the community has great concerns about changing the zoning to allow for more intense automobile-related uses, particularly as the property fronts Victory Parkway.

Given the needs and concerns of both the developer and the EWHAA, both entities worked together to reach a compromise. If the property at 1216 E. McMillan alone were to be rezoned to CC-M, all the properties at the intersection would be within the same zone, the restaurant/retail development would be a permitted use, and the Parkway would not be in danger of more intense automobile-related uses. The developer is taking a risk in this compromise, as the location of the drive-through would require a variance from the City's Hearing Examiner. The EWHAA has pledged their support for any future variances for this project.

The developer's architect has been working on several potential site plans for this location. The City's Department of Transportation and Engineering (DOTE) has reviewed the site plans. They conveyed their requirements for ingress and egress at this intersection and internal site circulation, but had no major concerns with any of the potential site plans. The architect will continue to work with DOTE and other City departments to ensure adherence to all City regulations.

#### **CONCLUSIONS:**

1. The CC-A Commercial Community – Auto District zoning would not be an appropriate designation for the northeast corner of Victory Parkway and E. McMillan Street because the Parkway would be in danger of more intense automobile-related uses.
2. The CC-M Commercial Community – Mixed District zoning at 1216 E. McMillan would allow the development to occur, particularly with the support of the EWHAA for future variances.

#### **RECOMMENDATION:**

The staff of the Department of Community Development and Planning recommended that City Planning Commission take the following action:

**Deny** a zone change from CC-M Commercial Community–Mixed to CC-A Commercial Community-Auto at 1202 E. McMillan Street, 1216 E. McMillan Street, and 2516 Victory Parkway in East Walnut Hills.

**Approve** a zone change from OG Office General to CC-M Commercial Community–Mixed at 1216 E. McMillan Street in East Walnut Hills.

#### **DISCUSSION**

Ms. Keough-Jurs gave a brief overview of the proposed zone change. She stated that the East Walnut Hills Assembly (EWHAA) was supportive of the proposal and indicated that the petitioner Mike Misleh and Ed Pfetzing, of the EWHAA, were present to answer any questions.

Mr. Faux asked if the existing office building would be demolished and Ms. Keough-Jurs stated that the Skyline Chili at 1202 E. McMillan Street; the Cinelect union building located at 1216 E. McMillan Street; and, the Clermont Pharmacy building, located at 2516 Victory Parkway would be demolished in order for the owner to construct a new Skyline Chili Restaurant.

Mr. vom Hofe asked if the proposed drive-thru would be permitted in the CCM. Ms. Keough-Jurs explained that the drive-thru is permitted in the rear of the building in the CCM. However, the proposed front location would require the owner to go through the variance process with the Hearing Examiner. The East Walnut Hills Assembly said that they would support the petitioner in his efforts to obtain the necessary variance.

**Motion:** Mr. Tarbell moved approval of Item #3.  
**Second:** Mr. vom Hofe  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. vom Hofe and Mr. Dohoney  
**Nays:** None, **motion carried**

**ITEM #4** A report and recommendation on a proposed zone change from CG-A Commercial General - Auto to PD Planned Development District at 5081 Madison Road, 5101 Madison Road, 5207 Madison Road and 4851 Red Bank Road, located near the intersection of Red Bank Road and Madison Road in Madisonville.

*Ms. Katherine Keough-Jurs, Senior Planner, presented this item.*

## **GENERAL INFORMATION:**

### **BACKGROUND:**

*Madison Circle* is a proposed new development near the intersection of Madison Road and Red Bank Road, on the sites previously occupied by the former Oakley Drive-In and Southwestern Publishing Company. The proposed development would consist of approximately 426,000 square feet of retail services, office, health care, restaurants, medical, office condominiums and community services on this twenty-nine acre site. A public access road through the site is proposed. The property owner and developer, Circle Development, has requested a change in zoning to Planned Development (PD) for the entire project site. The project is projected to draw approximately 500 employees daily, and additional shoppers and restaurant patrons.

### **EXISTING CONDITIONS:**

All parcels within the site are currently zoned CG-A Commercial General – Auto.

The property surrounding the area for rezoning is as follows:

North: CG-A and RM-2.0 (Commercial General – Auto and Residential Multi-Family)

West: RMX and MG (Residential Multi-Family and Manufacturing General)

South: CG-A and MG (Commercial General – Auto and Manufacturing General)

East: CG-A (Commercial General – Auto)

### **SUMMARY OF THE CONCEPT PLAN:**

The proposed *Madison Circle* is a phased development consisting of approximately 12 buildings (including 2 existing buildings) totaling approximately 426,000 square feet of retail services, office, health care, restaurants, medical, office condominiums and community services. Parking would be provided on several surface lots and one three-level parking structure containing approximately 340 parking spaces.

The following is a list of the proposed buildings, their proposed square footage and number of stories. No building is expected to exceed 100 feet in height.

Building	Square Footage	Stories
Pet retail services	18,000	1
Office Condo	60,000	4
Office/Medical	60,000	4
Assisted Living	130,000	4
Office A	60,000	2
Office B	60,000	2

Building	Square Footage	Stories
Restaurant A	6,600	1
Restaurant B	6,600	1
Restaurant/Retail	6,600	1
Existing Retail	4,859	1
Existing Office	13,480	2
Parking Structure	340 spaces	3 Levels

Setbacks for the buildings closest to the property lines are as follows: setback from north property line – approximately 80 feet; setback from the west property line – approximately 180 feet; setback from the south property line – approximately 65 feet; setback from the east property line – approximately 40 feet.

#### **BASIC REQUIREMENTS OF A PLANNED DEVELOPMENT DISTRICT:**

According to Section 1429-05 of the Cincinnati Zoning Code, a PD District and development within a PD District must comply with the following:

- (a) *Minimum Area* – The minimum area of a PD must be two contiguous acres. The site of the proposed development is approximately 29 acres.
- (b) *Ownership* – Hyde Park Circle, LLC, owns all property with the exception of a 0.2-acre vacant site owned by the City of Cincinnati and the 0.5-acre gas station owned by AB Hudson. Circle Development is in the process of trying to acquire these properties.
- (c) *Multiple buildings on a lot* – more than one building is allowed on a lot. There would be twelve (12) buildings on this site, including two existing buildings.
- (d) *Historic Landmarks and Districts* – the site is not in a historic district nor does it contain any historic landmarks. The boundary of the Eastwood National Register Historic District is located across Madison Road approximately 100 feet from the northwestern corner of the proposed development site.
- (e) *Hillside Overlay Districts* – the site is not located in a Hillside Overlay District.
- (f) *Urban Design Overlay District* – the site is not located within an Urban Design Overlay District.

#### **CONCEPT PLAN AND DEVELOPMENT PROGRAM STATEMENT:**

According to Section 1429-09 of the Cincinnati Zoning Code, a petition to rezone a property to PD must include a concept plan and development program statement. The purpose is to describe the proposed use or uses to be conducted in the PD District. The concept plan must include text or diagrams that specify:

- (a) *Plan Elements* – the applicant has submitted a survey of the site, including a metes and bounds description and has included sufficient information regarding proposed land uses, building location, streets and driveways, building set back lines, building heights, and open space.
- (b) *Ownership* – the applicant owns the majority of the property, and is in the process of acquiring the remaining small sites.
- (c) *Schedule* – Site work could begin as early as Fall 2006 and completion of demolition is expected by Spring 2007. Depending on market conditions, construction is proposed as follows: Phase I (Retail Services and Assisted Living) beginning second quarter 2007; Phase II (Office Development) beginning third/fourth quarter 2007; Phase III (Additional Projects) beginning first quarter 2008 or as demand warrants.
- (d) *Preliminary Reviews* – All utilities are available to the site and at adequate capacities. This project was the topic of a Pre-development Conference in August 2006, and the developer was made aware of the concerns of all permitting agencies. The developer will continue to coordinate the infrastructure design with MSD, GCWW and other City departments including

the Department of Transportation and Engineering (DOTE). A traffic impact study and a flood study would be required before the final development plan is approved. To ensure that all proposed infrastructure was sufficient, Planning Staff circulated a copy of the concept plan to pertinent City departments and will circulate the final development plan upon submission.

- (e) *Density and Open Space* – the site plan shows the location of all open space. The open space is approximately 13.76 acres in size, which is about 47% of the total site acreage.

#### **PLANS:**

This property is within the Madisonville Industrial Corridor Urban Renewal Plan, adopted in 1991. The proposed development is located within the bounds of Focus Area One, which designates this site for future redevelopment. One main strategy of the plan, to construct a new roadway to remove industrial traffic from residential streets, is being considered in this Planned Development.

#### **PUBLIC COMMENT:**

Public discussions regarding this development began before the application for a zone change was filed. Rumors that the proposed development would consist of a big-box retail use prompted the Madisonville Community Council to discuss this site at its March 16, 2006 meeting. Fears of the impact of a large retail development on the surrounding residential uses resulted in a Community Council Resolution to: 1) oppose any new traffic lights on Madison Road to serve this site; 2) allow traffic access to the site only by Red Bank Road, and; 3) create a road providing access to Charlemar Drive from Red Bank Road to remove truck traffic from Charlemar Drive. Before filing the application for a zone change, representatives from Circle Development met with the President of the Madisonville Community Council and Chair of the Council's Business Committee, along with City Staff from the Department of Community Development and Planning, on August 2, 2006. The development described at that meeting and in the application for a zone change was quite different from what was previously imagined by the Madisonville Community Council.

A public Staff Conference was held on September 27, 2006. Most in attendance did not oppose the zone change and were in favor of a new mixed-use development on this site. Many were concerned about the future increased traffic and noise that may arise as a result of this proposed development, and were interested in knowing the number and location of points of ingress and egress to the site. All were interested in being included in future discussions about the development, especially those on adjacent or nearby residential streets. Staff received three letters from surrounding property owners: one letter was in opposition; another that did not oppose a mixed use development as long as traffic concerns and the pedestrian nature of Madison Road are considered and the developer meets with and takes into account the needs of surrounding residents; a third letter was generally in support of a mixed-use development but was strongly opposed to the area being referred to as "Madisonville."

The Madisonville Community Council heard a presentation on this development at the September 21, 2006 meeting and voted to support the zone change. Because this development is adjacent to the Oakley neighborhood, representatives from Circle Development gave a presentation to the Oakley Community Council on October 3, 2006. Both neighborhoods appreciated the presentations and hope to receive future updates as this development progresses.

#### **CITY PLANNING COMMISSION ACTION:**

According to Section 1429-11(a) of the Cincinnati Zoning Code, City Planning Commission may recommend approval or conditional approval, with restrictions on the establishment of a PD District on finding that all of the following circumstances apply:

1. The PD concept plan and development program statement are consistent with applicable plans and policies and is compatible with surrounding development;

*The Madison Circle development is consistent with the Madisonville Industrial Corridor Urban Renewal Plan as approved in 1991. It is compatible with surrounding development as it is bound in part by commercial and manufacturing uses. All residential uses would be required to be appropriately buffered from the development.*

2. The PD concept plan and development program statement enhance the potential for superior urban design in comparison with the development under the base district regulations that would apply if the plan were not approved;

*The Madison Circle development proposes a design that allows for multiple mixed uses to be located on the same site, with the potential for a much-needed access road that would remove industrial traffic from nearby residential streets. The development also proposes a parking garage in order to minimize surface parking and maximize open space. Traditional office or commercial zoning may not have allowed the flexibility needed to accomplish this site design.*

3. Deviations from the base district regulations applicable to the property at the time of the PD application are justified by compensating benefits of the PD concept plan and development program statement;

*The property, as currently zoned, would allow for the most intense commercial uses to be developed with little or no input from the surrounding community. The proposed development is more in keeping with the goals of the Madisonville community to encourage high-quality mixed-use developments that serve both regional and neighborhood needs.*

4. The PD concept plan and development program statement includes adequate provisions for utility services, refuse collection, open space, landscaping, buffering, pedestrian circulation, traffic circulation, building design and building location.

*All aspects are covered in the concept plan as submitted.*

#### **FINAL DEVELOPMENT PLAN:**

Pursuant to Section 1429-13 *Final Development Plan*, a final development plan and program statement would be submitted to City Planning Commission after approval of the concept plan and Planned Development (PD) designation by City Council.

A final development plan must be filed for any portion of an approved concept plan that the applicant wishes to develop; this plan must conform substantially to the approved concept plan and development program statement. The final development plan requirements anticipate changes from the concept plan by requiring significantly more detail. Approval of the final development plan would allow the developer to obtain building permits. The process allows the City Planning Commission to authorize Staff to approve minor amendments that might become necessary and outlines the process for major amendments that must be reviewed and approved.

#### **CONCLUSIONS:**

1. The re-zoning of the property at 5081 Madison Road, 5101 Madison Road, 5207 Madison Road and 4851 Red Bank Road, located near the intersection of Red Bank Road and Madison Road in Madisonville, to Planned Development is necessary for construction of the proposed *Madison Circle* development.

2. The applicant, Circle Development, has submitted a satisfactory concept plan and development program statement and has successfully met all basic requirements of the Planned Development District.

### **RECOMMENDATION:**

The staff of the Department of Community Development and Planning recommended that the City Planning Commission take the following action:

1. **Accept** the concept plan for the proposed *Madison Circle* development; and
2. **Approve** the zone change from CG-A Commercial General - Auto to PD Planned Development District at the property at 5081 Madison Road, 5101 Madison Road, 5207 Madison Road and 4851 Red Bank Road, located near the intersection of Red Bank Road and Madison Road in Madisonville

### **DISCUSSION**

Ms. Keough-Jurs used a large map to show the location of the proposed Planned Development and pointed out nearby businesses and gave a brief overview of the proposal. She also stated that the plan included the creation of a road providing access to Charlemar Drive from Red Bank Road to remove truck traffic from the residential area on Charlemar Drive. Ms. Keough-Jurs added that there were concerns with flood plain issues raised by the Army Corps of Engineers and that after a review, MSD, B & I felt that it was permissible to proceed with development. She said that changes could be made in the Final Development Plan if flood plain issues were found.

Mr. Faux asked if the existing commercial buildings on Red Bank Road were a part of the site and if they would remain. Ms. Keough-Jurs stated that the buildings, a recently renovated retail center and an office building, would remain. There are also several businesses' nearby that are not part of the development. Mr. Faux also asked if there were plans to turn Red Bank Road into an expressway. Ms. Keough-Jurs answered that there were some long range plans but there were multiple designs and possibilities with no definite timeline.

Mr. vom Hofe asked if there were issues with access roads and the entrance and exits to the development. Ms. Keough-Jurs stated that the Department of Transportation and Engineering would have to approve these. Mr. Faux stated that there was already a signal on Madison Road.

Mr. Tarbell asked if the position of the Community Council had changed. Ms. Keough-Jurs indicated that there was a letter from the Madisonville Community Council that indicated their support of the PD designation.

Mr. James Hurst, nearby business owner, stated that he had concerns that the proposed right-in/right-out access on Red Bank Road would possible create a situation where motorists would use his private property as a turn around site.

Mr. Joe Trauth, Attorney representing Circle Development, stated that the proposed development is less intense than the current CG-A zoning would allow. He said that he felt the proposed *Madison Circle* development would be a positive addition to the community and encouraged approval.

Mr. Rick Kelsch, Madison Road resident, stated that his family developed the residential property along Charlemar Drive and at that time it was considered to be Oakley. He stated that he had strong concerns



about the change of neighborhood designation for the area. Mr. Faux reminded Mr. Kelsch that the Planning Commission did not make decisions regarding neighborhood classifications. Mr. Kelsh suggested that the Charlemar Drive be extended to Red Bank Road to reduce traffic noise in the residential area. He stated the current plan only moved the traffice noise to the rear of the neighborhood.

Ms. Karen Fitzpatrick, West Eastwood Circle resident, also suggested that the access to the manufacturing area on Charlemar Drive be off of Red Bank Road. She stated that her neighborhood already has many community services and hoped that the area would not house too many more. She added that she would like Madison Road to remain more pedestrian and not be turned into a mostly auto orientated thoroughfare.

Mr. Dohoney asked Ms. Keough-Jurs about the traffic concerns raised by the community members. Ms. Keough-Jurs stated that DOTE was working on the issues and would make recommendations for the final development plan.

Mr. Tarbell asked if the planning staff were satisfied with the overview of the PD. Ms. Keough-Jurs answered that a PD allows planning staff and the Planning Commission much greater oversight than the current zoning.

**Motion:** Mr. Tarbell moved approval of Item #4.  
**Second:** Mr. vom Hofe  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. vom Hofe and Mr. Dohoney  
**Nays:** None, **motion carried**

**ITEM #5** A report and recommendation on authorizing the City Manager to enter into an Agreement for relocation of Dixmyth Avenue with Good Samaritan Hospital for the improvement of Dixmyth Avenue.

*Ms. Caroline Kellam, Senior Planner, presented this item.*

**PURPOSE:** To dedicate, accept and confirm an improved portion of the relocated Dixmyth Avenue.

**BACKGROUND:** On June 3, 2005, the Cincinnati Planning Commission approved the sale of excess City-owned property related to the realignment of Dixmyth Avenue in Clifton, which real property was no longer needed for any municipal purpose.

The realignment and widening improvements to Dixmyth Avenue are complete. This project improved vehicular, pedestrian, and bicycle safety by replacing the existing narrow, winding roadway with a relocated modern facility.

The Planning Commission must approve the location of the new Dixmyth Avenue by dedicating, accepting, and confirming the new location and the improvements.

**RECOMMENDATION:**

The staff of the Department of Community Development and Planning recommended that the City Planning Commission take the following action:

Approve the dedication, acceptance and confirmation of the new dedication of 121,536 square feet of City-owned property as public right-of-way for the relocation of Dixmyth Avenue between Whitfield Avenue and Clifton Avenue

## **DISCUSSION**

Ms. Kellam gave a brief overview of the proposal. She also distributed a map of the site that had not been included in the Planning Commission packets.

**Motion:** Mr. Dononey moved approval of Item #5.  
**Second:** Mr. vom Hofe  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. vom Hofe and Mr. Dohoney  
**Nays:** None, **motion carried**

## **OTHER BUSINESS**

**ITEM #6** A request for future presentation to the Planning Commission on the Over-the-Rhine Plan implementation.

The Planning Commission members agreed, by concurrence to a future presentation.

## **ADJOURN**

**Motion:** Mr. Tarbell motioned to adjourn.  
**Second:** Mr. vom Hofe  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. vom Hofe and Mr. Dohoney  
**Nays:** None, motion carried

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Margaret A. Wuerstle, AICP  
Chief Planner

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Caleb Faux, Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_